

PROJECT DEVELOPMENT MANUAL

Appendix 11

Reevaluations

August 19, 2021

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APPENDIX 11
REEVALUATIONS

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1.0 INTRODUCTION

1.1 PURPOSE

The purpose of this appendix is to guide the user through the reevaluation process including documentation needs. A reevaluation determines whether a project's environmental determination(s) under the State Environmental Quality Review Act (SEQRA¹) or under both the National Environmental Policy Act (NEPA) and SEQRA remain(s) valid and consistent with established environmental commitments or if additional analysis is warranted.

A reevaluation is a continuation of the project development process, but it does not necessarily reopen the NEPA (and/or SEQRA) determinations.² In addition to determining the validity of the environmental determination document(s), the reevaluation may identify a need for supplemental analysis or documentation, varying from additional environmental studies/analyses to a potential for a new Design Approval Document, Environmental Assessment or Supplemental Environmental Impact Statement. A reevaluation must take a "hard look" at any changes to the project (including new information or changed circumstances relevant to environmental concerns) before reaching its conclusion.³ This appendix will guide the user through the reevaluation process and documentation.

1.2 APPLICABILITY

The Reevaluation procedures in Section 2.0 are applicable to all NYSDOT projects, regardless of funding source or procurement method. The procedures are in conformance with 23 CFR 771.129 and are in agreement with 17 NYCRR Part 15. Where NYSDOT is not the SEQRA lead agency, the lead agency follows 6 NYCRR 617 or other regulation implementing SEQRA and this must be documented. Note that 17 NYCRR 15.8 applies for NYSDOT actions when NYSDOT is not the SEQRA lead agency. Contact the Regional Local Project Liaison (RLPL) or Local Programs Bureau for information on SEQRA requirements for local projects.

With regard to NEPA, the procedures presented in this appendix have been developed specifically for projects with FHWA as the federal lead agency. Where a federally funded project has a USDOT federal lead agency other than FHWA (subject to 23 CFR 771), the agency should be contacted to confirm use of these procedures. For projects with other federal lead agencies, the NEPA implementing regulations for that agency should be reviewed for compatibility with these procedures.

¹ Reevaluation is not a term used in SEQRA implementing regulations. For the purposes of NYSDOT's Project Development Process, all projects are subject to the process described in this appendix to ascertain that the project's SEQRA determination and any environmental commitments made in the SEQRA documentation remain valid throughout the project development process.

² [NEPA Reevaluation Joint Guidance for FHWA, FTA and FRA](#), August 14, 2019

³ [Reevaluations of NEPA Documents](#), NCHRP Project 25-25, Task 28, March 2008

1.3 DEFINITIONS

Assessment

The initial step of the reevaluation process. The assessment analyzes the project parameters, design, conditions, setting and schedule to determine if there are project changes.

Construction Phase Authorization

Construction Phase Authorization is a financial determination enabling the Program Management Bureau to initiate the contract advertisement process (ref MAP 7.1-7), including the Financial Management Information System (FMIS) project approval action by FHWA allowing construction costs to be incurred on federally funded projects.

Consultation

A discussion between the Project Manager and the Design Quality Assurance Bureau – Policy and Development Section (PDS) (or for local projects, the Regional Local Project Liaison (RLPL)) occurring after the completion of an assessment and including any subsequent Department contact with FHWA.

Design Approval Document (DAD)

The document containing project studies and analysis enabling the selection of a preferred alternative, making the environmental determination(s) and granting of design approval (advancement to final design).

Design Envelope

A design envelope is the horizontal and vertical extent in which an alternative's potential effects have been analyzed.

Discretionary Reevaluation

A reevaluation required when FHWA or their designee identifies a need for a reevaluation on a discretionary basis (e.g., on a high profile/high-risk project, the FHWA determines that a reevaluation must be completed at a point outside of mandatory reevaluation point(s)).

Environmental Determination Document

The document(s) containing the NEPA and/or SEQRA determination(s). Depending on the classification, this would be the FEIS/ROD, ROD, FONSI, DONSE, or the DAD that contains the NEPA CE Determination and/or SEQRA Type II (or Exempt) Determination.

Mandatory Reevaluation

A reevaluation required prior to construction phase authorization in Phase VI and for the Pre-Approval of Major Changes process in Construction.

Reevaluation

A review of conditions and as necessary, a documented analysis of identified changes to a project's scope, design, setting, anticipated impact, applicable requirements, commitments, and mitigation measures used to determine the validity of the project NEPA and/or SEQRA determinations.

Reevaluation Form

Standard documentation that is to be used for all reevaluations. The magnitude of proposed changes for a project will require varying levels of documentation within the Reevaluation Form.

The Reevaluation Form is structured to accommodate all levels of required documentation and to help right-size the volume of documentation.

2.0 PROCESS

2.1 ASSESSMENT

Appropriate project personnel should determine when the reevaluation initiation points identified below are reached. Reaching one of these points triggers a reevaluation. Generally, it is anticipated that the project manager or designer will lead this effort and shall involve environmental staff and others as appropriate. Environmental staff may need to take a lead role in the reevaluation once it has been initiated due to particular environmental issues or topics involved.

Design Phases V/VI Reevaluation Initiation:

Identify when/whether any of the Final Design reevaluation initiation items 1 - 5 below are met. This is the first step of a reevaluation in Final Design.

1. Complex Projects with federal funding - More than three years have passed from the date of circulation of a DEIS (or subsequent SEIS) with no submission of the FEIS to FHWA.
2. Complex Projects with federal funding - More than three years have passed from the approval of a FEIS (or subsequent SEIS) and the project has not advanced to the next major step.
3. Any project with federal funding – A mandatory reevaluation is to be prepared at PS&E and must receive approval prior to Construction Phase Authorization. *Note that all projects should use the Advance Detail Plan review as a check point for potential changes.*
4. Any project with federal funding – A discretionary reevaluation is determined to be needed by FHWA or their designee at a point other than construction phase authorization.
5. 100% State funded projects – When project changes are identified at any point after the Environmental Determination Document is approved. *Note that all projects should use the Advance Detail Plan review as a check point for potential changes.*

Construction Phase Reevaluation Initiation:

Identify whether a reevaluation is initiated from Items 1-2:

1. All projects - Refer to Section 104-02 of the Contract Administration Manual (CAM) for the process (Pre-Approval of Major Changes) for the criteria for reevaluation initiation due to Change Orders. Likely examples of project changes that could result from a major change order are changes to project scope, design envelope, extent of project limits and right of way.
2. Any project with federal funding – A discretionary reevaluation is determined to be needed by FHWA or designee at any point in Construction.

Project Changes

When appropriate project personnel have found a project has progressed to or meets any of the reevaluation initiation items in Final Design or Construction, the potential for project changes must then be identified and documented. When any of the changes listed below are identified, an analysis of the changes and the effect of the changes on the environmental determinations must be documented. The conditions that are project changes include:

- A change in the project scope. A change in project scope generally means a change to project type (HDM Section 2.2) or changes to defined features and functions of a project as developed through scoping and preliminary design. This includes changes that affect the project purpose and the selected/build alternative.
- A horizontal or vertical change to the project's design envelope.
- A change in roadway operational characteristics within the project study area.
- A change to the extent of the project limits.
- A change in the project's right of way acquisitions. This includes changes to the type of right of way acquisition (e.g., change from a temporary easement to permanent easement).
- A change to the extent, location, materials, methods or composition of proposed measures identified as commitments (mitigation measures) in the final design approval document or environmental determination document. Examples of commitments are tree cutting restrictions related to Endangered Species Act Section 7 approvals and conditions included in a Section 106 Memorandum of Agreement.
- A change in the social, economic or environmental circumstances or other conditions within the project study area (the affected environment).
- A change in the federal or state statutory environmental standards or other applicable regulatory requirements.
- Discovery of new information not considered in the original process.
- A change in funding (occurring after design approval) from 100% State to include the use of federal funding.

2.2 CONSULTATION

After the assessment has been completed, determine whether consultation is appropriate. Consultation with the PDS/RLPL is required:

- When the DA Grantor is the RD and the project has one or more of the project changes identified in Section 2.1.
- For any reevaluation where the DA Grantor is the DCED or FHWA.

The consultation process has the following purposes:

- To identify the appropriate level of reevaluation documentation needed.
- To flesh out the potential need for supplemental information or rescission/reissuance of an environmental determination document (see Section 3.0 for information).
- Determine the need to submit the reevaluation to FHWA in accordance with the approvals in Section 2.5.

The PDS/RLPL will involve the FHWA and the project's Phases I-IV MOPL at this stage as needed. The need to re-open consultation or coordination with any review agencies identified in Design Phase II (including but not limited to formally identified consulting and participating agencies) is determined on a case-by-case basis, depending on the extent of project changes and project classification.

Reevaluations do not require new or additional public involvement. However, project changes may trigger public involvement/notification requirements of other regulations, such as Section 4(f), Section 106, etc. If project changes are extensive or if there is the potential for changes to modify expectations resulting from previous public involvement, a new opportunity for public involvement is recommended.

If the assessment/consultation finds that there are no changes to the project, complete the Reevaluation Form and file it in the project file. If the assessment and consultation determine there are changes, complete the Reevaluation Form per the instructions. Certification and approval signatures are required, as noted on the form.

2.3 DOCUMENTATION

Reevaluations can vary in complexity based on the project type, the scope of revisions or length of time that has elapsed. Projects with many changes, or where more time has passed, may require additional studies and documentation to evaluate the impact of any changes. Where more time has passed since the last project approval, project studies may need to be substantially updated to ensure compliance with current regulations.

The reevaluation shall:

- Clearly document any project changes with the appropriate level of detail and additional study. Focus on changes to the project, the affected environment, or circumstances that are relevant to environmental concerns.
- Highlight any new information or circumstances identified since the Environmental Determination Document was approved.
- Document field reviews, additional environmental studies, and coordination with other agencies used to determine whether there are any new potential impacts or issues.

- Update technical investigations as needed, e.g., design criteria and nonstandard features, traffic impact study, crash analysis, etc.
- Document any changes to the project's impacts including specifically identifying how the project's impacts will differ from those identified in the DAD.
- Include a final determination regarding the validity of the original environmental determinations.
- Contain the appropriate approval signatures.

Evaluating Changes

The reevaluation must evaluate changes in relation to the entire project approved in the DAD (including segments already constructed). This includes projects that have been phased for design and construction after design approval is received. This wholistic review ensures that potential issues that could affect future segments are identified, avoided, minimized or mitigated early in the reevaluation process. When preparing a reevaluation, the analysis of the potential significance of any project changes and their potential to affect the environmental determinations must be sufficiently documented. The analysis of the potential significance must evaluate the overall project impacts, not only the impacts caused by the changes. For example, changes to a project previously determined to qualify as a categorical exclusion may result in the need to prepare an EA or EIS.

2.4 CONCLUSION AND DOCUMENTATION

The reevaluation shall include a conclusion of the reevaluation analysis. The conclusion statement must specify whether the original environmental determinations remain valid after comprehensively considering the changes to the project and/or circumstances. Depending on the complexity of the reevaluation, environmental regulations, or potential for public controversy, it may be necessary or desirable to do additional agency coordination and/or public involvement. The reevaluation should concisely document these efforts and discuss the results.

If a reevaluation determines that there is a change in an environmental determination, refer to Exhibit 11-1 for the requirements and documentation steps needed. The final decision to undertake or fund an action (design approval) cannot be made prior to the final environmental determination(s). Therefore, when there is a change to an environmental determination, design approval will typically be rescinded and supplemental analysis in the form of a new, revised or amended DAD must be prepared before a new DA is granted (refer to Section 3.0).

Exhibit 11-1 Processing/Documentation Requirements for Revisions to Environmental Determinations

Existing NEPA Class:	Reeval determined NEPA Class:	Existing SEQRA Type:	Reeval determined SEQRA Type:	Requirements/Documentation Steps	
Class II	Class II	Type II	Non-Type II (EA)	Design Approval	Rescind DA ¹
				Documentation options	Amendment/supplemental information with new Project Approval Sheet (PAS)
					New DAD ²
				Other	DONSE filing required prior to regranted DA
Class II	Class II	Non-Type II (EA)	Type II	Design Approval	Rescind DA
				Documentation Options	Amendment/supplemental information with new PAS
				Other	Rescind existing DONSE
Class II	Class III	Type II	Non-Type II (EA)	Consult with PDS/RLPL and Office of Environment (OOE)	
				Design Approval	Rescind DA
				Documentation options	New DAD/EA – Processed as Class III
				Other	DONSE filing prior to new DA FONSI approval prior to new DA
Class II or Class III	Class I	Type II or Non-Type II (EA)	Non-Type II (EIS)	Refer to Section 3.0 and consult with PDS/RLPL and OOE	
Class I Supplemental EIS needed				Refer to Section 3.0 and consult with PDS/RLPL and OOE	
Notes:					
1. Because DA cannot occur prior to an environmental determination, when a determination changes the original DA must be rescinded and DA for the changed project granted.					
2. Depending on the complexity of project changes a new DAD may be needed.					

2.5 CERTIFICATION AND APPROVALS

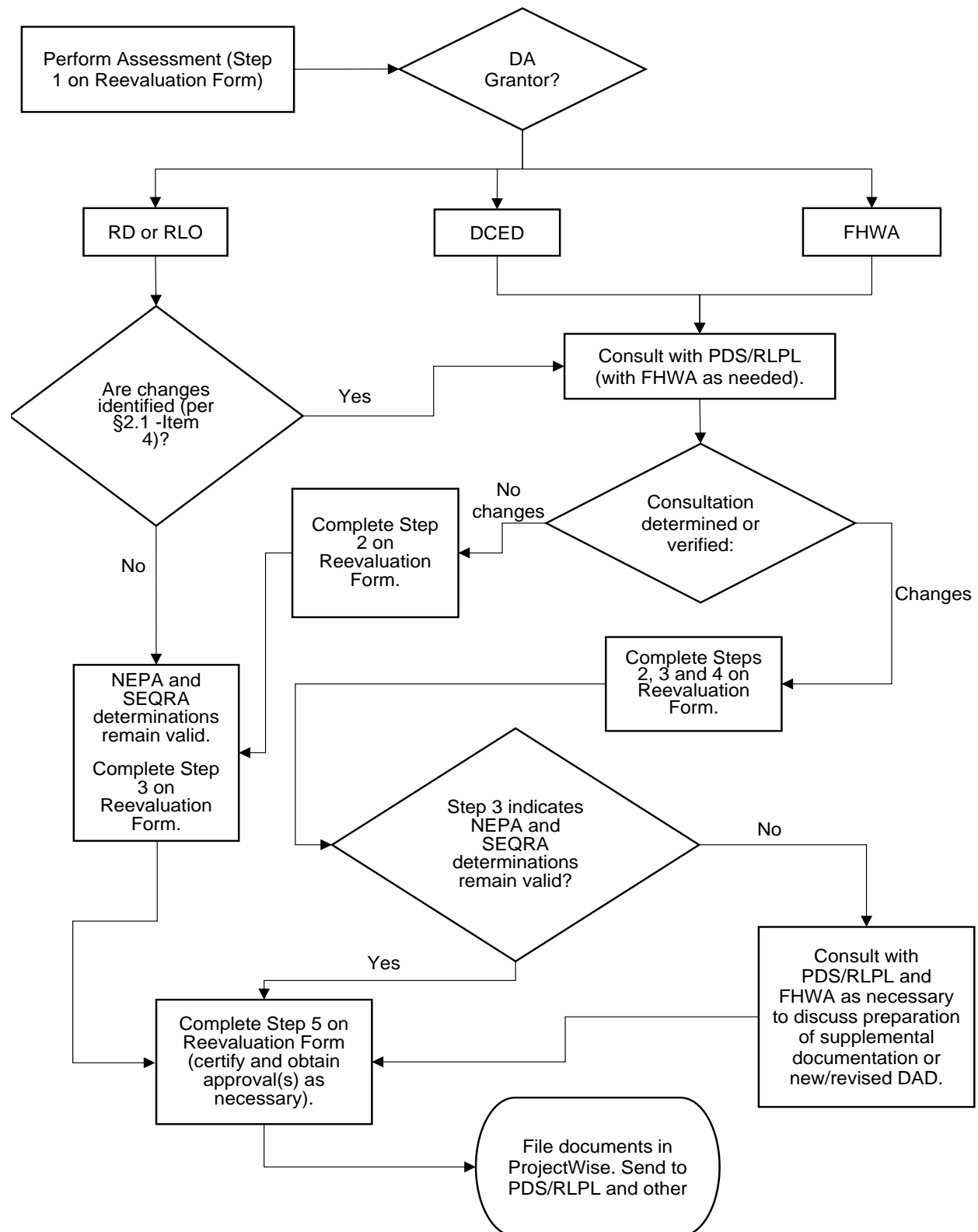
Upon completion, the preparation of the Reevaluation Form must be certified by the Project Manager/Project Designer and Regional Environmental Unit Supervisor (REUS). For local projects, the form must be certified by the Local Project Designer, the REUS and RLPL. Approvals shall subsequently be provided for the reevaluation as specified by the following:

- All reevaluations for NYSDOT administered projects must include a NYSDOT approval (potentially in addition to FHWA approval). The RD shall approve all reevaluations when the project design approval grantor was the RD. The DCED shall approve reevaluations with project changes and where the project DA grantor was the DCED or FHWA. The Director of the Design Quality Assurance Bureau shall approve reevaluations that do not have project changes and where the project DA grantor was the DCED or FHWA.
- All locally administered project reevaluations require approval signature from the RD.
- For reevaluations where project changes in Section 2.1 have been identified, an approval from FHWA is required on the Reevaluation Form based on the NEPA classification as follows:
 - NEPA Class I – the signatory is the Division Administrator.
 - Class III – the signatory is the Project Delivery Engineer/Team Leader.
 - Class II projects that received the CE Determination from FHWA or that have a revised CE Determination from NYSDOT to FHWA – the signatory is the Area Engineer.
 - Class II projects that retain NYSDOT CE Determination do not require FHWA approval.

Reevaluations that require DCED/FHWA approval(s) as noted above will require submission of the reevaluation to the PDS/RLPL with a request for review and to obtain (as necessary) DCED/FHWA approval.

Upon receipt of the request, the PDS/RLPL will perform a quality assurance review of the reevaluation prior to its submission to the DCED and/or FHWA. Once all comments have been resolved, the PDS/RLPL will request the necessary approvals. Allow at least 30 days for FHWA review, when applicable.

Exhibit 11-2 Reevaluation Process Flowchart for Projects with Federal Funding



3.0 SUPPLEMENTAL INFORMATION

The guidance below generally presents potential outcomes and resulting documentation and processing needs when a reevaluation finds that the determinations of the original DAD are no longer valid. The resulting needs are dependent upon the specific nature of project changes or circumstances and the NEPA/SEQRA Class/Type. The consultation step of the reevaluation process discussed in Section 2.2 will determine the appropriate supplemental information and additional processing needs (e.g., a need to rescind/revise/reissue a project's environmental determination document(s)).

- A DEIS, FEIS or existing Supplemental EIS (SEIS) may be supplemented at any time when a reevaluation has determined there are changes resulting in significant environmental impacts or there is new information or circumstances relevant to environmental concerns that could result in significant environmental impacts that were not evaluated in the EIS (23 CFR 771.130(a). The supplemental environmental document must be processed in accordance with 23 CFR 771.130. Refer to [FHWA's Technical Advisory T6640.8A](#) for further guidance.
- Where the significance of impacts from changes to a DEIS or FEIS is uncertain, the preparation of an EA may be needed (23 CFR 771.130(c)).
- When an EA or supplemental EIS is needed to address issues of limited scope per 23 CFR 771.130(e), the preparation of the supplemental document must not necessarily:
 - prevent the granting of new approvals,
 - require the withdrawal of previous approvals,
 - or require the suspension of project activities not directly affected by the supplement.

Consultation will determine any need to reissue the FEIS/ROD or ROD.

- If changes to a NEPA Class II project may result in a significant environmental impact, or the potential for a significant environmental impact that was not present or addressed/resolved in the original DAD (the updated FEA indicates the potential for unusual circumstances per 23 CFR 771.117(b)), an EIS or EA needs to be prepared. Consultation with PDS/RLPL and FHWA will determine the appropriate level of environmental documentation (EA or EIS).
- If an existing SEQRA Non-Type II Determination of No Significant Effect (DONSE) contains information that is no longer accurate based on project, regulation or circumstantial changes, the DAD will be revised or amended and a new DONSE must be prepared and filed per 17 NYCRR 15.10(a).
- If a project's SEQRA determination changes from Type II to Non-Type II (EA), a new DAD with SEQRA EA should be prepared to fully evaluate the project with changes. If the new DAD determines that the project will not have a significant effect, a SEQRA DONSE must be prepared and filed per 17 NYCRR Part 15.10(a).

- If changes to a NEPA Class III project result in new potential for unusual circumstances per 23 CFR 771.117(b) but the changes do not clearly require the preparation of an EIS, appropriate supplemental analysis will need to be prepared to evaluate the significance of all project impacts. The previous Finding of No Significant Impact (FONSI) may need to be rescinded if determined by consultation. If a significant impact is discovered, an EIS must be prepared.

Per 23 CFR 771.130(d), a Supplemental EIS shall follow the same format and process as the original document, except that NEPA scoping is not required. All Supplemental EIS or new DAD formats shall use the appropriate [DAD shell](#), and shall include required appended information/studies/documents. Revise the title of the document as necessary.

4.0 DOCUMENT RETENTION

Per [EI 20-027](#), all approved reevaluations and any subsequent approved and sealed supplemental EIS, EA or new DAD must be included in the project's Record Retention folder in Project Wise and in the project files. The files shall be named in accordance with PDM Appendix 14. Provide copies to DQAB-PDS and the appropriate recipients on the Reevaluation Form cc list.

APPENDIX A – REEVALUATION FORM

See [PDM Webpage](#).

**APPENDIX B – SOCIAL, ECONOMIC AND ENVIRONMENTAL CONDITIONS CHECKLIST
FOR REEVALUATIONS**

See [PDM Webpage](#).